

MARLBOROUGH REPUBLICAN CITY COMMITTEE

September 6, 2016

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Mr. Christopher Morse
Reports and Analysis Division
Federal Election Commission
999 E St NW
Washington, D.C. 20463

Dear Mr. Morse:

We are submitting this letter based on the recommendation you gave to the Committee's representative on August 22, 2016. The purpose of the letter is to demonstrate that the Marlborough Republican City Committee (MRCC) is a separate and independent political committee from the Massachusetts State Republican Party.

11 CFR §110.3(b)(3)(ii) establishes a presumption that "[a]ll contributions made by the political committees established, financed, maintained, or controlled by a State party committee and by subordinate State party committees shall be presumed to be made by one political committee." However, this presumption shall not apply if:

- (i) The political committee of the party unit in question has not received funds from any other political committee established, financed, maintained, or controlled by any party unit; and (ii) The political committee of the party unit in question does not make its contributions in cooperation, consultation, or concert with, or at the request or suggestion of any other party unit or political committee established, financed, maintained, or controlled by another party unit. *Id.*

In Advisory Opinion 1978-9, the Commission responded to a request for an opinion from the Republican State Central Committee of Iowa, concerning the independence of various county central committees. The Commission concluded that the presumption in 11 CFR 110.3(b)(2)(ii) did not apply. The Commission reached this conclusion based on the following:

- the State Committee and the 99 county committees were created by Iowa statutes and the latter were "separate and independent" from the State Committee in that each county committee elected its own officers and adopted its own constitution and by-laws.
- the State Committee did not "mandate or have any influence over the expenditures of the county central committee's funds, and any contributions from the county committees to federal candidates [we]re not made in cooperation, consultation or concert with, or at the request or suggestion of, the Republican State Central Committee."

Under 11 CFR 110.3(b)(3) and Advisory Opinion 1978-9¹, MRCC is independent of the Massachusetts State Republican Party Committee (the "State Committee"). Under Massachusetts law, separate statutes provide for the creation and maintenance of state committees and of local

¹ In Advisory Opinion 1999-4, the Commission stated that Advisory Opinion 1978-9 is "the principal advisory opinion addressing the relationship of a State party committee to a local party committee under" 11 CFR 110.3(b)(3).

committees. See ALM GL ch. 52, § 1 (state committees)²; ALM GL ch. 52 §§ 2-10 (local committees).³ Additionally, MRCC elects its own officers and adopts its own bylaws, distinct from the State Committee.⁴ MRCC's bylaws establish its membership, internal organization, and its separate registration with the Secretary of State.

Regarding finances, MRCC raises and spends its own funds independently from the State Committee. It does not receive funds from the State Committee (or other political committees that may be affiliated with the State Committee).⁵ Neither does the State Committee mandate or have influence over expenditures of MRCC's funds. MRCC's expenditures are made by the elected officers who provide financial updates to the membership at quarterly meetings.

Additionally, contributions from MRCC to candidates (state or federal) are not made in cooperation, consultation, or concert with, or at the request or suggestion of, the State Committee.

A comment in a 2014 story in a prominent Boston newspaper about MRCC's political activities aptly summarized MRCC's relationship to the State Committee, noting that MRCC operates "outside the state party structure."⁶

Under Massachusetts law and based on longstanding practice, MRCC is independent from the State Committee. Because MRCC has demonstrated that it is not established, financed, maintained or controlled by the Massachusetts state committee, the presumption that MRCC and the State Committee are "one political committee" as provided in 11 CFR §110.3(b)(3) should not apply, and MRCC should be treated as a separate committee under federal campaign finance laws.

Please let me know if you have any questions or need any additional information.

Thank you.

Sincerely,



Matthew O'Brien
Treasurer

² Available at <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVIII/Chapter52/Section1>

³ Available at <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVIII/Chapter52/>

⁴ Available at <http://www.marlbroughgop.com/MRCC%20By-Laws.pdf>.

⁵ A list of all of MRCC's donors is available upon request.

⁶ See <https://www.bostonglobe.com/metro/2014/03/18/republicans-coalesce-behind-charlie-baker/xMo6CHc0b50eSxrH5tVFuO/story.html>.

PART I ADMINISTRATION OF THE GOVERNMENT
TITLE VIII ELECTIONS
CHAPTER 52 POLITICAL COMMITTEES
Section 1 State committees; election; organization; terms; vacancies

Section 1. Each political party shall, in the manner herein provided, elect a state committee from among its members who either have enrolled on or before the ninetieth day prior to the last day for filing nomination papers for state committees with the state secretary, or are newly registered voters in their city or town enrolled in that political party and have not been enrolled in another political party during the year preceding such last day for filing nomination papers. Each state committee shall consist of one man and one woman from each senatorial district, who shall be residents thereof, to be elected at the presidential primaries by plurality vote of the members of the party in the district, and such number of members as may be appointed by the state committee as hereinafter provided. Members of said committee elected at the presidential primaries from senatorial districts shall hold office for a period of four years from the thirtieth day next following their election; provided that members of said committee elected in nineteen hundred and seventy-six shall hold office for a period beginning May fifteenth, nineteen hundred and seventy-six and ending on the thirtieth day following the day on which presidential primaries are next held. Members appointed by the state committee shall hold office for two years from the date of their appointment; provided, however, that in no event shall the terms of office of such members extend beyond the term of office of members who were elected at the presidential primaries.

The members of the state committee elected at the presidential primaries shall, within ten days after the thirtieth day next following their election, meet and organize for the purpose of choosing a secretary, treasurer, and such other officers, other than a chairman, as they may decide to elect; provided, however, that such members shall, within ten days after the November general election at which a president is elected, meet and choose a chairman. Notwithstanding the provisions of any general or special law to the contrary, a chairman shall serve in his respective position until his successor has been chosen; provided, however, that in the event that a state committee requires that its chairman be a member and any such elected chairman ceases to be a member, the committee shall choose a temporary chairman who shall serve until a permanent chairman is chosen following the November election as aforesaid. Such committee may, at any time after its organization, add to its membership.

The secretary of the state committee shall file with the state secretary, and send to each city and town committee, within ten days after such permanent organization, a list of the members of the state committee and of its officers, and, within ten days after each addition to its membership made subsequently to its permanent organization, a list of the members so added.

A vacancy in the office of chairman, secretary or treasurer of the state committee or in the membership thereof shall be filled by said committee, and a statement of any such change shall be filed as in the

case of the officers first chosen.

NOTICE OF PUBLIC HEARING



PART I ADMINISTRATION OF THE GOVERNMENT
TITLE VIII ELECTIONS
CHAPTER 52 POLITICAL COMMITTEES
Section 2 Ward and town committees; elections; terms

Section 2. Each political party shall, in every ward and town, elect at the presidential primaries a ward or town committee from among the members of the party who either have enrolled on or before the ninetieth day prior to the last day for filing nomination papers for such committees with the state secretary, or are newly registered voters in their city or town enrolled in that political party and have not been enrolled in another political party during the year preceding such last day for filing nomination papers. Ward and town committee members shall hold office for a period of four years ending on the thirtieth day following the day on which the presidential primaries are next held and until their successors shall have organized. If any member changes his residence from the ward or town in which he was elected during the said four years, he shall cease to be a member at the end of the calendar year during which said residence is changed. If any member, whether elected or chosen to fill a vacancy, cancels or changes his party enrolment he shall forthwith cease to be a member of said committee.

For the purposes of this chapter, notwithstanding the fact that ward lines in a city have been redistricted subsequent to a presidential primary, members of ward committees elected from wards in existence at the time of a presidential primary shall continue to represent said wards until their successors shall have been elected and organized under the redistricted ward lines at the presidential primary next following said redistricting.



PART I ADMINISTRATION OF THE GOVERNMENT

TITLE VIII ELECTIONS

CHAPTER 52 POLITICAL COMMITTEES

Section 4 City, ward and town committees; organization; failure to elect or organize

Section 4. Each city, ward and town committee shall within ten days after the thirtieth day next following the election of its members, meet and organize by the choice of a chairman, a secretary, a treasurer and such other officers as it may decide to elect; provided that members of said committee elected in nineteen hundred and seventy-six shall meet and organize within ten days after May fifteenth, nineteen hundred and seventy-six. At such meeting a ward or town committee may add to its elected members; provided, that by so doing the total number of members shall not be made to exceed the number determined under section nine. Ward and town committees may appoint associate members by vote at any meeting. Associate members shall not have the right to vote but shall have such other powers and duties as the ward or town committee may determine. In case there is a failure of election of a ward or town committee, the city committee or the state committee, respectively, of the political party which said ward or town committee represents shall appoint from among the voters qualified therefor the members of such committee and shall call a meeting for its organization, in such call appointing a time for holding the same and naming a person to preside thereat. If a ward committee or a city or town committee fails to meet within the time prescribed by this section and organize, the city committee or the state committee, respectively, of the political party which such ward, city or town committee represents shall call a meeting for its organization, in such call appointing a time for holding the same and naming a person to preside thereat. In the event that a ward or town committee fails to meet at the time appointed as aforesaid and organize, the election of each of its members shall be void and the same proceedings shall be had as is herein provided in the case of a failure of election.



PART I ADMINISTRATION OF THE GOVERNMENT

TITLE VIII ELECTIONS

CHAPTER 52 POLITICAL COMMITTEES

Section 5 Lists of officers, members and associate members; acceptance of office of treasurer; filing

Section 5. The secretary of each city, ward and town committee shall, within ten days after its organization, file with the state secretary, with the city or town clerk and with the secretary of the state committee of the political party which it represents, a list of the officers and members of the committee, together with the addresses of such officers. In the case of a city, the secretary of each ward committee shall also file a copy of such list within such time with the chairman of the city committee of the political party which it represents. Within a like period after the appointment of associate members, said secretary shall likewise file a list of such associate members. The treasurer of such committee shall qualify for his office by filing a written acceptance thereof with the director of campaign and political finance, as provided in section five of chapter fifty-five. The secretary of such committee shall file with the director of the office of campaign and political finance a list of the officers of the committee, together with the addresses of such officers, within ten days after organization of such committee, or within ten days, of any change in the list of officers of such committee.



PART I ADMINISTRATION OF THE GOVERNMENT
TITLE VIII ELECTIONS
CHAPTER 52 POLITICAL COMMITTEES
Section 6 Vacancies

Section 6. A vacancy in the office of chairman, secretary or treasurer or in any other office, notice of the filling of which must be filed under the provisions of section five, of a city, ward or town committee or in the membership of a ward or town committee shall be filled by such committee from among the enrolled members of the party resident in such city, ward or town, and a statement of any such change shall be filed as in the case of the officers and members first chosen. If any member shall change his residence from the city, ward or town in which he was chosen to fill said vacancy, he shall cease to be a member at the end of the calendar year during which said residence is changed.

TITLE VIII ELECTIONS

CHAPTER 52 POLITICAL COMMITTEES

Section 7 Disposition of funds upon redivision of city into wards

Section 7. Upon the redivision of a city into wards the treasurer of each ward committee of a ward affected by such redivision shall, before the termination of office of the members thereof, pay over to the treasurer of the city committee representing the same political party such funds of the ward committee as he has in his possession after paying all bills. In the statements required under section seventeen of chapter fifty-five, the treasurer of the ward committee making such payment shall report it as a disbursement and the treasurer of the city committee receiving it shall report it as a receipt.



PART I ADMINISTRATION OF THE GOVERNMENT

TITLE VIII ELECTIONS

CHAPTER 52 POLITICAL COMMITTEES

Section 8 Election of existing committees

Section 8. Each committee existing at the time when the party which it represents first polls for any office to be filled by all the voters of the commonwealth at a biennial state election three per cent of the entire vote cast in the commonwealth for that office, and each committee existing at the time when the party it represents first polls for mayor or a selectman at a city or town election at least three per cent of the entire vote cast in the city or town for that office, shall be deemed elected under this chapter, and shall be subject to its provisions.

CHAPTER 52 POLITICAL COMMITTEES

Section 9 Ward and town committees; number of members to be elected at presidential primaries; notice

Section 9. Ward and town committees, respectively, shall fix the number of members of ward and town committees to be elected at the presidential primaries, not less than three nor more than thirty-five for each ward and each town. Notice of the number of committee members to be elected shall be given by the ward or town committee, as the case may be, to the state secretary on or before August first of the year preceding the year in which said persons are to be elected. In case a ward or town committee fails to fix the number of members of a ward or town committee or to give such notice, the number of members of such ward or town committee to be elected shall be the number of members last so fixed or assigned.



Section 10 Rules and regulations

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NOTICE TO CREDITORS

(3/2015)